



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Woodard, Emhardt, Naughton, Moriarty & McNett
Bank One Center Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

MAILED

AUG 14 2003

Office of the Director
Group 3600

In re Application of
Anthony David Kilvert
Application No. 09/646,261
Filed: September 11, 2000
For: IMMOBILISER DEVICE

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: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT
:

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on April 4, 2003.

The petition is **DISMISSED**.

A review of the file record reveals that an Office communication, setting a one month time period for reply, was mailed to applicant on August 23, 2002. Since a response to the August 23, 2002 Office communication was not received, the application was held abandoned, and a Notice to that effect was mailed on March 19, 2003.

Applicants' petition submits a statement that the Office communication mailed on August 23, 2002 was not received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of September 23, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The practitioner has failed to comply with requirements (2) and (3) indicated above.

With regards to requirement (2), the petition fails to include a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. To satisfy requirement (3) above, a docket record showing **all** actions due by the **firm** of Woodard, Emhardt, Naughton, Moriarty & McNett at and around the due date of September 23, 2002, needs to be supplied.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

snm/tpl: 8/11/03